IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

LINSLEY JOHNSON	§	
	§	
	§	**CIVIL NO.____________**
VS.	§	
	§	
	§	
GREEN OAKS SNF, LLC D/B/A	§	
GREEN OAKS REHAB & NURSING	§	

PLAINTIFF'S ORIGINAL COMPLAINT

I. JURISDICTION AND PARTIES

1. Jurisdiction of this Court is invoked pursuant to Section 107(a) of the Americans with Disabilities Act (hereinafter "ADA"), 42 U.S.C. § 12117, which incorporates by reference § 706 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-5, providing for relief against discrimination on the basis of disability in employment.

2. All conditions precedent to jurisdiction under § 706 of Title VII, 42 U.S.C. § 2000e-5(f)(3), have occurred or been complied with:

(a) a charge of employment discrimination on the basis of disability was filed with the Equal Employment Opportunity Commission ("EEOC") within 180 days of the commission of the unlawful employment practice alleged herein.

(b) A Notification of Right to Sue was received from the EEOC on August 25, 2016.

(c) This Complaint has been filed within 90 days of receipt of the EEOC's Notification of Right to Sue.

3. Plaintiff, Linsley Johnson, is a citizen of the United States and the State of Texas who resides in Smith County, Texas.

4. All the discriminatory employment practices alleged herein were committed within the State of Texas.

5. Defendant, Green Oaks SNF, LLC d/b/a Green Oaks Rehab & Nursing (hereinafter "Green Oaks"), has continuously been and is doing business in Henderson County, Texas. Green Oaks SNF, LLC may be served by delivering a copy of the Complaint to its registered agent for service, Interstate Agent Services, LLC, 12830 Hillcrest Road, Suite 111, Dallas, Texas 75230.

6. GREEN OAKS is a "person" within the meaning of § 101(7) of the ADA, 42 U.S.C. § 12111(7), and § 701 of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e.

7. GREEN OAKS is engaged in an industry that affects commerce within the meaning of Section 101(7) of the ADA, 42, U.S.C. § 12111(7), and Section 701 of the Civil Rights Act of 1964, 42 U.S.C. § 2000e.

8. GREEN OAKS employs 15 or more employees and is an "employer" within the meaning of Section 101(5)(A) of the ADA, 42 U.S.C. § 12111(5)(A).

II. STATEMENT OF FACTS

9. Plaintiff, Linsley Johnson, was employed for five and one-half years by Advanced Healthcare Solutions dba Green Oaks Healthcare in Athens, Texas. Ms. Johnson was employed as the dietary manager for the nursing home for which she worked.

10. On April 26, 2015, Plaintiff was involved in an auto accident which resulted in serious injuries. Ms. Johnson's right foot was amputated on May 1, 2015 and she was released from the hospital on May 5, 2015. Plaintiff completed the proper paperwork to obtain Family Medical Leave through September 1, 2015, which was granted by Advanced Healthcare/Green Oaks.

11. On August 25, 2015, Plaintiff had a face to face conversation with Barbara Eubank, the administrator for Advanced Healthcare/Green Oaks. In that conversation, Plaintiff informed Eubank that her doctor was not ready to release her to full duty on September 1, 2015 and she requested either an extension of her Family Medical Leave or an accommodation to work half days until she was fully released by her doctor. Eubanks stated that she would have to consult

with Pat Johnson, Regional VP and Denise in corporate HR and would get back with her.

12. On August 27, 2015, Plaintiff had a meeting with Eubank at the Green Oaks nursing home along with Sherry in HR. In that meeting, Eubanks informed Plaintiff that she was terminated because she had exhausted all of her Family Medical Leave as of July 28, 2015. Prior to that date, Plaintiff had never been informed that she had exhausted her Family Medical Leave, nor that she was terminated.

III. CLAIMS FOR RELIEF

(A) Americans with Disabilities Act

11. From the time of Plaintiff's diagnosis, Plaintiff has been an individual with a "disability" within the meaning of Section 3(2) of the Americans with Disabilities Act, 42 U.S.C. § 12102(2). More particularly, Plaintiff has a physical impairment that substantially limits one or more of her major life activities, has a record of such an impairment, and was regarded by GREEN OAKS as having such an impairment.

12. Plaintiff is a "qualified individual with a disability" as that term is defined in § 101(8) of the ADA, 42 U.S.C. § 12111(8). More specifically, Plaintiff is an individual with a disability who, with reasonable accommodation, can perform the essential functions of his job as a dietary manager at GREEN OAKS.

13. Despite her request for time off, GREEN OAKS refused to make reasonable accommodation to Plaintiff.

14. GREEN OAKS's failure to make reasonable accommodation to Plaintiff's physical disability constitutes discrimination against Plaintiff with respect to terms, conditions, or privileges of employment. GREEN OAKS's actions constitute a violation of Section 102(b)(5)(A) of the ADA, 42 U.S.C. § 12112(b)(5)(A).

15. GREEN OAKS failed to undertake any good faith efforts, in consultation with Plaintiff, to

identify and make a reasonable accommodation with Plaintiff.

16. In failing to make reasonable accommodation to Plaintiff's physical disability, GREEN OAKS acted with malice or with reckless indifference to the federally protected rights of Plaintiff.

IV. DAMAGES

17. As a direct and proximate result of Green Oaks's discrimination on the basis of disability and violation of the ADA, Plaintiff has suffered lost wages and benefits and lost employment opportunities.

18. Defendant's failure to make reasonable accommodation to Plaintiff has caused, continues to cause, and will cause Plaintiff to suffer substantial damages for pecuniary losses, mental anguish, loss of enjoyment of life, and other non-pecuniary losses.

19. Defendant intentionally inflicted extreme emotional distress upon Plaintiff by intentionally discharging Plaintiff on the basis of her disability. Plaintiff has suffered extreme emotional distress, embarrassment, severe disappointment, indignation, shame, despair, and public humiliation due to Defendant's discharge of Plaintiff.

20. Plaintiff's harm was a result of the Defendant's actual malice or reckless indifference to Plaintiff's protected rights, thus Plaintiff seeks exemplary damages.

21. Plaintiff is entitled to recover her reasonable and necessary attorney's fees pursuant to 42 U.S.C. § 2000e.

22. Plaintiff demands trial by jury.

V. RELIEF REQUESTED

23. Plaintiff requests the judgment of this Court against Defendant, GREEN OAKS as follows:

(a) Find and hold that Plaintiff has suffered from Defendant's acts of discrimination on the basis of her disability;

(b) Order that Plaintiff be awarded the back pay she would have earned, with related monetary benefits and interest thereon, had she been reinstated to her position;

(c) Order that GREEN OAKS reasonably accommodate Plaintiff;

(d) Award Plaintiff compensatory damages in an amount to be determined at trial of this matter;

(e) Requiring Defendant pay to Plaintiff damages for mental distress imposed upon Plaintiff through and as a result of the aforementioned discriminatory acts;

(f) Award Plaintiff her attorney fees, including litigation expenses, and the cost of this action; and

(g) Grant such other and further relief as may be just and proper.

Respectfully submitted,

___/s/________________________________

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